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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/944,108

Filing Date: September 04, 2001

Appellant(s): LIEBL ET AL.

Marc W. Butler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 27, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1 and 3-22 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,181,992 B1 GURNE et al. 1-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurne et al., U.S. Patent Number 6,181,992 B1, "Automotive Diagnostic Service Tool with Hand Held Tool and Master Controller", class 701/29.

As per independent claim 1, a method of displaying automotive service data on a diagnostic tool, comprising the steps of: displaying a list of performance measurements, descriptions and values; (Gurne discloses a menu display providing options and function keys, col. 6, lines 34-40, see also figure 6) scrolling through said list of measurement descriptions and values; (Gurne discloses direction arrow keys to scroll the menu, col. 7, lines 9-10) selecting a measurement from said list; (Gurne discloses a system selection screen to select the vehicle diagnosis option, col. 7, lines 19-26) and displaying a graphical representation of said selected measurement over

time. (Gurne discloses displaying graphical information dynamically, see figure 12, col. 16, lines 24-35)

However, it is noted that Gurne fails to disclose arranging the order in which said measurement description and values are displayed.

Gurne discloses visually describing what steps are to be taken and in what order and the units are designed to user forms of routines and each routine can be thought of as a series of steps, col. 15, lines 28-36.

It would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the order of the measurement and values to allow a technician to perform the required action based upon the form of routine steps.

With respect to dependent claim 3, selecting the font for at least one entry in said list of performance measurements. (Gurne discloses allowing a user to define customized templates by selecting parameters a user wishes to display by entering characters to identify the template, col. 10, lines 39-67)

With respect to dependent claim 4, selected font differentiates said entry from the other entries in said list. (Gurne discloses highlighting an item containing characters, to indicate selection of a desired item, col. 7, lines 1-18)

With respect to dependent claim 5, selected font is a different color from the other entries in said list. (Gurne discloses highlighting an item containing characters to select a desired item, col. 7, lines 1-18. It is inherent that highlighting is used to differentiate between characters.)

With respect to dependent claim 6, selecting the performance measurement to be displayed in said list from a group of available measurements. (Gurne discloses a list of selected measurements, figure 6)

With respect to dependent claim 7, receiving said performance measurement values from a vehicle onboard computer. (Gurne discloses using the hand held tool to receive communication information, i.e. measurement values, from vehicle controller systems, col. 5, lines 22-27)

With respect to dependent claim 8, varying the time axis of the graphical representation of said selected measurement over a portion of said measurement before displaying said graphical representation. (Gurne discloses display data graphs and templates that define which variables will be displayed as charts or text, col. 16, lines 35-39)

With respect to dependent claim 9, varying step includes expanding the time axis over a discreet portion of said axis. (Gurne discloses the hand held unit as a data logger and allow the user to select vehicle parameters on a real time basis and further discloses the logging information represents a snapshot or window of information of which the user can freeze in time as well as the parameters around the time of the trigger, col. 11, lines 10-54)

With respect to dependent claim 10, performance measurements are engine performance measurements. (Gurne discloses using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27)

With respect to dependent claim 11, moving selected performance measurement descriptions and values to the top of said list to arrange the order in which the entries are listed. (Gurne discloses allowing a user to enter the customization mode and select from a list of parameters, i.e. performance measurements, that the user wishes to display, col. 10, lines 39-47)

As per independent claim 12, apparatus for displaying automotive service data, comprising: a display screen; (Gurne discloses a display screen, figure 2, element 20) a pair of switches that receive input directing data to scroll up and down on said display screen; (Gurne discloses a toggle up and down button, figure 5, element 68) a selection switch for selecting a data item displayed on said display screen; (Gurne discloses a switch, figure 5, element 70) a graphics program for generating a graphical representation to be displayed on said display screen of said selected data item; (Gurne discloses based upon the user selection the hand held is in a programming mode, col. 10, lines 20-25) and wherein said selected data item is an engine performance measurement. (Gurne discloses using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27)

However, it is noted that Gurne fails to disclose a first graphical representation and a second graphical representation by varying a time axis of the first graphical representation and displaying both simultaneously.

Gurne discloses a split window, with a digital multi mode and a suspended operation and allowing the technician to toggle between the operations and further allow the technician to perform different types of reading simultaneously, col. 8, lines 4-44.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include displaying a first and second graphical representation simultaneously because Gurne allows for different types of reading simultaneously and the technician may desire to view the time frame for a different procedure.

With respect to dependent claim 13, pair of switches and selection switch share a single input button on said apparatus. (Gurne discloses functions keys to perform screen toggle and further discloses the function keys may be configurable through software, col. 6, lines 40-47)

With respect to dependent claim 14, display screen is a touch screen.

However, it is noted that Gurne fails to disclose a touch screen.

Gurne discloses providing function keys and function key describer in the form of an icon.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the display screen of Gurne as a touch screen, because it is well known in the art that the selection of an icon is performed by input means, which may include touch.

With respect to dependent claim 15, display screen is an LCD screen. (Gurne discloses a LCD display screen, col. 4, lines 1-3)

With respect to dependent claim 16, graphics program can vary the length of the time axis driving different intervals of the performance measurement. (Gurne discloses the hand held unit as a data logger and allow the user to select vehicle parameters on a real time basis and further discloses the logging information represents a snapshot or

window of information of which the user can freeze in time as well as the parameters around the time of the trigger, col. 11, lines 10-54)

As per independent claim 17, apparatus for display automotive service data, comprising: display means for displaying a list of engine performance descriptions and measurements; (Gurne discloses a display menu, figure 6) selection means for selecting at least one of said engine performance measurements to be displayed in a graphical representation; (Gurne discloses a system selection screen to select the vehicle diagnosis option, col. 7, lines 19-26) wherein said graphical representation is displayed in the list of engine performance descriptions and measurements. (Gurne discloses using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27)

However, it is noted that Gurne fails to disclose a first graphical representation and a second graphical representation by varying a time axis of the first graphical representation and displaying both simultaneously.

Gurne discloses a split window, with a digital multi mode and a suspended operation and allowing the technician to toggle between the operations and further allow the technician to perform different types of reading simultaneously, col. 8, lines 4-44.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include displaying a first and second graphical representation simultaneously because Gurne allows for different types of reading simultaneously and the technician may desire to view the time frame for a different procedure.

With respect to dependent claim 18, input means for receiving data representative of said performance measurement from a vehicle on board computer. (Gurne discloses a hand held unit which operates as a digital multi meter in which electrical readings, i.e. measurements, from a vehicle are input to the hand held unit for display, col. 7, lines 53-67)

With respect to dependent claim 19, port means for receiving programs for converting data received from said on board computer for display. (Gurne discloses ports for receiving expansion modules that allow the hand held to communicate with different devices and interpret, i.e. convert, the information, col. 11, lines 55 – col. 12, line12)

With respect to dependent claim 20, port receives a flash card. (Gurne discloses flashable memory, col. 6, lines 42-55)

As per independent 21, a method of displaying automotive service data . . . comprising the steps of: displaying a list of performance measurements, descriptions and values; (Gurne discloses a menu display providing options and function keys, col. 6, lines 34-40, see also figure 6) scrolling through said list of measurement descriptions and values; (Gurne discloses direction arrow keys to scroll the menu, col. 7, lines 9-10) selecting a measurement from said list; (Gurne discloses a system selection screen to select the vehicle diagnosis option, col. 7, lines 19-26) and displaying a graphical representation of said selected measurement over time. (Gurne discloses displaying graphical information dynamically, see figure 12, col. 16, lines 24-35)

However, it is noted that Gurne fails to disclose a first graphical representation and a second graphical representation by varying a time axis of the first graphical representation and displaying both simultaneously.

Gurne discloses a split window, with a digital multi mode and a suspended operation and allowing the technician to toggle between the operations and further allow the technician to perform different types of reading simultaneously, col. 8, lines 4-44.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include displaying a first and second graphical representation simultaneously because Gurne allows for different types of reading simultaneously and the technician may desire to view the time frame for a different procedure.

With respect to dependent claim 22, the selected data is an engine performance measurement. (Gurne discloses using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27)

(11) Response to Argument

Applicant's arguments filed 07/24/2004 have been fully considered but they are not persuasive.

Applicant arguments on page 17, states that the Examiner interpretation of the series of steps of the user forms of routines as part of a diagnostic routine are different than the claimed present application. Examiner states in final office action that Gurne fails to disclose arranging the order in which the measurements, descriptions and values are displayed, and further stated that Gurne provides the motivation for

“arranging the order in which said measurements descriptions and values are displayed in said displaying step.”

Gurne discloses in the cited portion of the office action (col. 15, lines 31-36) “support personnel need to be able to visually describe what steps are to be taken and in what order”, and further discloses the “diagnostic routine can be thought of simply as a series of steps”. It is therefore the interpretation of the Examiner that the diagnostic routine involves measurements, (see Gurne col. 7, lines 58-60, the technician, i.e. support personnel, may be requested to perform an electrical reading as part of the diagnostic steps) and the measurements, i.e. diagnostic routine or steps, are considered as a series of steps. Therefore, it would have been obvious that Gurne allows support personnel to order the measurements, i.e. diagnostic routines, to visually describe, i.e. on a computer display, the order of the measurements and steps to be performed.

Regarding applicants claims 3 and 4, Gurne discloses selecting the font for at least one entry (allowing a user to define customized templates by selecting parameters a user wishes to display by entering characters to identify the template, col. 10, lines 39-67), and where the font differentiates the entry from the other entries (highlighting an item containing characters, to indicate selection of a desired item, col. 7, lines 1-8, which Examiner interprets as differentiating a font entry). Regarding applicants claims 5 and 6, Gurne discloses where the selected font is a different color from the other entries (highlighting, col. 7, lines 1-8, which Examiner interprets as a differentiation through

color), and selection of a performance measurement to be displayed in a list from other available measurements (figure 7, col. 12, lines 17-21).

Regarding claims 7 and 8, Gurne discloses receiving said performance measurement values from a vehicle onboard computer (using the hand held tool to receive communication information, i.e. measurement values, from vehicle controller systems, col. 5, lines 22-27) and varying the time axis of the graphical representation of said selected measurement over a portion of said measurement before displaying said graphical representation (display data graphs and templates that define which variables will be displayed as charts or text, col. 16, lines 35-39). Regarding claim 9, varying step to include expanding the time axis over a discrete portion of the axis (the hand held unit as a data logger and allow the user to select vehicle parameters on a real time basis and further discloses the logging information represents a snapshot or window of information of which the user can freeze in time as well as the parameters around the time of the trigger, col. 11, lines 10-54, which Examiner interprets as a variation over a discrete portion). Regarding claims 10 and 11, performance measurements are engine performance measurements (using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27) and moving selected performance measurement descriptions and values to the top of said list to arrange the order in which the entries are listed (allowing a user to enter the customization mode and select from a list of parameters, i.e. performance measurements, that the user wishes to display, col. 10, lines 39-47)

Applicant argues that Gurne fails to disclose the apparatus recited in claim 12.

Gurne discloses apparatus for displaying automotive service data, comprising: a display screen (figure 2, element 20) a pair of switches that receive input directing data to scroll up and down on said display screen (a toggle up and down button, figure 5, element 68) a selection switch for selecting a data item displayed on said display screen (a switch, figure 5, element 70) a graphics program (col. 15, lines 16-24, using a flow chart form of representation to build diagnostic programs, which Examiner interprets as a graphics program) for generating a graphical representation to be displayed on said display screen of said selected data item, and wherein said selected data item is an engine performance measurement (using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27).

Examiner states in the office action that Gurne fails to disclose a first graphical representation and a second graphical representation by varying a time axis of the first graphical representation and displaying both simultaneously. Gurne discloses a split window, with a digital multi mode and a suspended operation and allowing the technician to toggle between the operations and further allow the technician to perform different types of reading simultaneously, col. 8, lines 4-44. Gurne further discloses that the technician can perform voltage differential tests quickly and easily by using the hand held tool and displaying the voltages on the screen, (col. 8, lines 23-33). Therefore it is the interpretation of the Examiner that the invention of Gurne may be interpreted to include in the multi mode operation on a split screen to perform different types of

readings simultaneously such as readings at different time periods, for example as in a voltage differential test that measures the voltage drop across an element.

In response to applicant's argument that Gurne fails to disclose a graphics program for generating a first graphical representation of said selected data over time, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 13 and 14, Gurne discloses pair of switches and selection switch share a single input button on said apparatus (functions keys to perform screen toggle and further discloses the function keys may be configurable through software, col. 6, lines 40-47) and display screen is a touch screen. However, it is noted that Gurne fails to disclose a touch screen. Gurne discloses providing function keys and function key describer in the form of an icon. It is therefore the interpretation of the Examiner that Gurne would be inclusive of a touch screen, because it is well known in the art that the selection of an icon is performed by input means, and input means may include touch.

Regarding claims 15 and 16, Gurne discloses display screen is an LCD screen (col. 4, lines 1-3), and graphics program can vary the length of the time axis driving

different intervals of the performance measurement (the hand held unit as a data logger and allow the user to select vehicle parameters on a real time basis and further discloses the logging information represents a snapshot or window of information of which the user can freeze in time as well as the parameters around the time of the trigger, col. 11, lines 10-54).

Regarding claim 17, Gurne discloses apparatus for display automotive service data, comprising: display means for displaying a list of engine performance descriptions and measurements (a display menu, figure 6); selection means for selecting at least one of said engine performance measurements to be displayed in a graphical representation (a system selection screen to select the vehicle diagnosis option, col. 7, lines 19-26); wherein said graphical representation is displayed in the list of engine performance descriptions and measurements (using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27)

Examiner states in the office action that Gurne fails to disclose a first graphical representation and a second graphical representation by varying a time axis of the first graphical representation and displaying both simultaneously. Gurne discloses a split window, with a digital multi mode and a suspended operation and allowing the technician to toggle between the operations and further allow the technician to perform different types of reading simultaneously, col. 8, lines 4-44. Gurne further discloses that the technician can perform voltage differential tests quickly and easily by using the hand held tool and displaying the voltages on the screen, (col. 8, lines 23-33). Therefore it is the interpretation of the Examiner that the invention of Gurne may be interpreted to

include in the multi mode operation on a split screen to perform different types of readings simultaneously such as readings at different time periods, for example as in a voltage differential test that measures the voltage drop across an element.

Furthermore, it is the interpretation of the Examiner that a multi mode operation on a split screen to perform different types of readings simultaneously, would be inclusive of readings at various time periods.

Regarding claims 18-20, Gurne disclose input means for receiving data representative of said performance measurement from a vehicle on board computer (a hand held unit which operates as a digital multi meter in which electrical readings, i.e. measurements, from a vehicle are input to the hand held unit for display, col. 7, lines 53-67) and port means for receiving programs for converting data received from said on board computer for display (ports for receiving expansion modules that allow the hand held to communicate with different devices and interpret, i.e. convert, the information, col. 11, lines 55 – col. 12, line12). Gurne discloses port receives a flash card (flashable memory, col. 6, lines 42-55)

Regarding 21, Gurne discloses a method of displaying automotive service data . . . comprising the steps of: displaying a list of performance measurements, descriptions and values (a menu display providing options and function keys, col. 6, lines 34-40, see also figure 6) scrolling through said list of measurement descriptions and values (direction arrow keys to scroll the menu, col. 7, lines 9-10) selecting a measurement from said list (system selection screen to select the vehicle diagnosis option, col. 7, lines 19-26) and displaying a graphical representation of said selected measurement

over time (displaying graphical information dynamically, see figure 12, col. 16, lines 24-35).

Examiner states in the office action that Gurne fails to disclose a first graphical representation and a second graphical representation by varying a time axis of the first graphical representation and displaying both simultaneously. Gurne discloses a split window, with a digital multi mode and a suspended operation and allowing the technician to toggle between the operations and further allow the technician to perform different types of reading simultaneously, col. 8, lines 4-44. Gurne further discloses that the technician can perform voltage differential tests quickly and easily by using the hand held tool and displaying the voltages on the screen, (col. 8, lines 23-33). Therefore it is the interpretation of the Examiner that the invention of Gurne may be interpreted to include in the multi mode operation on a split screen to perform different types of readings simultaneously such as readings at different time periods, for example as in a voltage differential test that measures the voltage drop across an element. Furthermore, it is the interpretation of the Examiner that a multi mode operation on a split screen to perform different types of readings simultaneously, would be inclusive of readings at various time periods.

Regarding claim 22, Gurne discloses the selected data is an engine performance measurement (using the tool in vehicle controller systems such as the engine, col. 6, lines 25-27).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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November 4, 2004

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